

Message Text

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PAGE 01 MEXICO 13189 01 OF 03 082157Z
ACTION SCA-01

INFO OCT-01 ARA-14 ISO-00 L-03 JUSE-00 /019 W
-----039352 082242Z /66

P 082142Z AUG 77

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC PRIORITY 4093

INFO ALL USCONS MEXICO (POUCH)

UNCLAS SECTION 01 OF 03 MEXICO 13189

STATE FOR SCA, L/SCA; DEPT PASS JUSTICE MICHAEL ABBELL

E.O. 11652 : NA

TAGS: CASC, MX

SUBJECT: IMPLEMENTATION US-MEXICO TRANSFER TREATY

1. EMBASSY REQUESTS AUTHORIZATION TO RELEASE FOLLOWING
INFORMATION SHEET TO U.S. PRISONERS ON PRIORITY BASIS.

BEGIN TEXT

(HEADING) "INFORMATION RELATING TO U.S.-MEXICO TREATY ON
EXECUTION OF PENAL SENTENCES"

THE TREATY BETWEEN THE UNITED STATES AND MEXICO ON THE
EXECUTION OF PENAL SENTENCES HAS BEEN APPROVED BY THE
MEXICAN CONGRESS AND THE U.S. SENATE. THE SENATE'S
ADVICE AND CONSENT WAS CONDITIONED ON THE PASSAGE OF
LEGISLATION TO ENABLE THE UNITED STATES GOVERNMENT TO
CARRY OUT THE OBLIGATIONS INCURRED UNDER THE TREATY. AS
OF THIS DATE THAT LEGISLATION HAS NOT BEEN PASSED BY THE
HOUSE OR THE SENATE AND THE INFORMATION CONTAINED HEREIN
COULD BE SUBJECT TO CHANGE SHOULD THERE BE ANY SUBSTANTIAL
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CHANGES IN THE LEGISLATION NOW PENDING BEFORE THE HOUSE
AND SENATE.

CONSULAR OFFICERS ARE NOT ABLE TO GIVE YOU ANY LEGAL ADVICE
ON THE TREATY OR THE TRANSFER PROCESS. HOWEVER, PRIOR TO
YOUR FORMAL DECISION ON WHETHER TO ACCEPT TRANSFER TO THE
UNITED STATES, YOU WILL BE GIVEN MORE COMPLETE INFORMATION

ON THE TRANSFER PROCESS AND WILL HAVE THE OPPORTUNITY TO CONSULT WITH AN ATTORNEY. THIS INFORMATION SHEET IS BEING PROVIDED TO YOU AS AN INTERIM MEASURE PENDING RECEIPT OF A MORE COMPLETE BOOKLET NOW UNDER PREPARATION IN THE DEPARTMENT OF JUSTICE.

THE TRANSFER PROCESS WILL BE INITIATED BY THE MEXICAN GOVERNMENT GIVING THE UNITED STATES GOVERNMENT A LIST OF THOSE PERSONS INDICATING A DESIRE TO TRANSFER. ON THE BASIS OF THAT LIST, EACH PRISONER WHO HAS INDICATED A DESIRE TO BE INTERVIEWED WILL BE AFFORDED AN INITIAL INTERVIEW BY REPRESENTATIVES OF THE DEPARTMENT OF JUSTICE AND THE BUREAU OF PRISONS. THE JUSTICE DEPARTMENT BOOKLET WILL, AMONG OTHER THINGS, EXPLAIN THE PURPOSE OF THIS INITIAL INTERVIEW. IT IS ANTICIPATED THAT THE BOOKLET WILL BE DISTRIBUTED BEFORE THE INITIAL INTERVIEW.

BETWEEN THE TIME OF THE INITIAL INTERVIEW AND THE FINAL STEP, VERIFICATION OF THE INDIVIDUAL'S VOLUNTARY CONSENT BY A U.S. MAGISTRATE, THOSE PRISONERS WHO DESIRE LEGAL ADVICE WILL BE GIVEN AN OPPORTUNITY TO CONSULT WITH AN AMERICAN ATTORNEY. NO ACT ON THE PART OF THE INDIVIDUAL, THE UNITED STATES GOVERNMENT OR THE GOVERNMENT OF MEXICO WILL BE BINDING UNTIL THE MAGISTRATE'S PROCEEDING.

THE FOLLOWING ARE RESPONSES TO COMMONLY RAISED QUESTIONS:

1.

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Q. WHAT ARE THE U.S. PRISON AND PAROLE REGULATIONS AND HOW WILL THEY APPLY TO MY CASE?

A. THIS QUESTION WILL BE RESPONDED TO BY THE BOOKLET. ANY QUESTIONS NOT ANSWERED BY THE BOOKLET SHOULD BE ASKED DURING THE INITIAL INTERVIEW BY THE DEPARTMENT OF JUSTICE.

2. Q. CAN I BE TRANSFERRED IF, DUE TO MY ACCUMULATED WORK CREDITS, I HAVE LESS THAN SIX MONTHS TO SERVE?

A. THE MEXICAN GOVERNMENT HAS INDICATED THAT, BY VIRTUE OF ITS LEGAL SYSTEM, WORK CREDITS WILL NOT BE COUNTED FOR THE PURPOSE OF ESTABLISHING THE TIME REMAINING TO BE SERVED. THAT TIME WILL BE CALCULATED ON THE BASIS OF TIME ACTUALLY SERVED COUNTED AGAINST THE SENTENCE. WORK CREDITS OBTAINED IN MEXICO WILL BE CREDITED FOR CONSIDERATION WITH THE U.S. PAROLE PROCEDURE IF YOU TRANSFER UNDER THE TREATY.

3. Q. MAY I BE INTERVIEWED IN PREPARATION FOR POSSIBLE TRANSFER IF I HAVE FAILED TO SIGN THE MEXICAN "INQUIRY" FORM INDICATING A DESIRE TO BE TRANSFERRED?

A. THE MEXICAN GOVERNMENT HAS INDICATED THAT THOSE PRISONERS WHO DO NOT SIGN THE "INQUIRY" FORM WILL NOT BE INTERVIEWED. HOWEVER, MEXICAN OFFICIALS HAVE ALSO INDICATED THAT THE FORM WILL BE MADE AVAILABLE TO THE PRISON DIRECTOR AND IF THE FORM IS SIGNED AND SUBMITTED TO THE PRISON DIRECTOR WHILE THE INTERVIEWING TEAM IS PRESENT, THE TEAM WILL BE ABLE TO INTERVIEW SUCH INDIVIDUALS.

4. Q. CAN I BE INTERVIEWED BEFORE I AM SENTENCED?

A. THE TREATY PROVIDES THAT ONLY THOSE PRISONERS WHOSE

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FM AMEMBASSY MEXICO
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INFO ALL USCONS MEXICO

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SENTENCES ARE FINAL MAY BE TRANSFERRED UNDER THE TREATY. THE MEXICAN GOVERNMENT HAS INDICATED THAT, ACCORDINGLY, IT WILL NOT PERMIT INDIVIDUALS NOT YET SENTENCED TO BE INTERVIEWED.

5. Q. IF MY SENTENCE IS RENDERED AFTER THE PROCESSING OF THE INITIAL GROUP OF PRISONERS, WHEN MAY I EXPECT TO HAVE THE OPPORTUNITY TO BE TRANSFERRED?

A. IT IS HOPED THAT A SUBSEQUENT TRANSFER WILL BE ARRANGED WITHIN A FEW MONTHS AFTER THE INITIAL TRANSFER AND PERIODICALLY THEREAFTER.

6. Q. MAY I BE INTERVIEWED BY U.S. JUSTICE OFFICIALS AFTER I AM SENTENCED, BUT IF I HAVE AN APPEAL OR AMPARO PENDING?

A. THE MEXICAN GOVERNMENT HAS INDICATED THAT IT WILL PERMIT INITIAL INTERVIEWS TO BE CONDUCTED WITH THOSE

PRISONERS WHO HAVE BEEN SENTENCED BUT WHO HAVE APPEALS OR AMPAROS PENDING. HOWEVER, NO PRISONER WHO HAS AN APPEAL OR AMPARO PENDING WILL BE ELIGIBLE FOR ACTUAL TRANSFER TO THE UNITED STATES.

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7. Q. SHOULD I WITHDRAW MY APPEAL OR AMPARO?

A. ANY DECISION TO WITHDRAW AN APPEAL OR AMPARO MUST BE BASED ON YOUR OWN ANALYSIS OF YOUR CASE, PREFERABLY IN CONSULTATION WITH YOUR ATTORNEY. THIS IS A MATTER ON WHICH THE CONSULAR OFFICER COULD NOT ADVISE YOU.

8. Q. IF I DECIDE TO WITHDRAW AN APPEAL OR AMPARO, HOW MAY IT BE DONE?

A. THE WITHDRAWALS OF APPEALS OR AMPAROS SHOULD BE ACCOMPLISHED BY AN INDIVIDUAL'S ATTORNEY, WHETHER HE IS A PRIVATE OR A PUBLIC DEFENDER. IF YOU ARE UNABLE TO REACH YOUR ATTORNEY OR PUBLIC DEFENDER, IT IS SUGGESTED THAT YOU SO INFORM THE CONSULAR OFFICER AND ACTION WILL BE TAKEN TO ASCERTAIN WHAT MAY BE DONE TO ASSIST YOU.

9. Q. WILL I NEED ANY DOCUMENTATION TO RETURN TO THE UNITED STATES?

A. IT IS PRESENTLY ANTICIPATED THAT PRIOR TO TRANSFER EACH INDIVIDUAL WILL BE PRE-PROCESSED IN MEXICO BY THE IMMIGRATION AND NATURALIZATION SERVICE. FOR IDENTIFICATION PURPOSES IT WILL BE NECESSARY TO HAVE A PASSPORT, OR IN LIEU THEREOF, THE CONSULAR OFFICER MAY PROCESS A CARD OF IDENTITY. A CONSULAR OFFICER WILL BE WORKING WITH YOU TO RESOLVE THIS PROBLEM. IN THE INTERIM, YOU WOULD BE ADVISED TO OBTAIN A CERTIFIED COPY OF YOUR BIRTH CERTIFICATE IF YOU DO NOT HAVE A PASSPORT. IF YOU HAVE DIFFICULTY IN ESTABLISHING IDENTITY, PLEASE SO NOTIFY THE CONSULAR OFFICER AS SOON AS POSSIBLE.

10. Q. IF I DECIDE TO RETURN UNDER THE TREATY, WILL I LEGALLY BE PROHIBITED FROM RETURNING TO MEXICO?

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A. THE EMBASSY HAS BEEN INFORMED THAT RETURN UNDER THE TREATY WILL HAVE NO EFFECT ON YOUR ABILITY OR INABILITY TO RETURN TO MEXICO. THAT MATTER WOULD BE UP TO THE

MEXICAN IMMIGRATION AUTHORITIES.

11. Q. IF I HAVE A PROBLEM WITH MY WORK CREDITS WHAT ASSISTANCE MAY I EXPECT FROM THE CONSULAR OFFICER?

A. THE CONSULAR OFFICERS AND THE EMBASSY WILL ASSIST EACH INDIVIDUAL IN AN EFFORT TO OBTAIN HIS PROPERLY AUTHORIZED WORK CREDITS AND THE MATTER SHOULD BE RAISED WITH THE CONSULAR OFFICER IF YOU BELIEVE YOUR WORK HAS NOT BEEN PROPERLY RECORDED.

12. Q. WHERE MAY I BE EXPECTED TO DEPART SHOULD I DECIDE TO TRANSFER?

A. YOU MAY BE EXPECTED TO DEPART AT MAJOR POINTS ALONG THE ROUTE TO THE UNITED STATES YET TO BE AGREED UPON BY BOTH GOVERNMENTS. IF YOU ARE PRESENTLY IN PRISON NOT ALONG THAT ROUTE, YOU WILL HAVE TO BE TRANSFERRED. IT IS EXPECTED THAT THE TRANSFER POINT IN MEXICO CITY WILL BE SANTA MARTA (MEN'S AND WOMEN'S). PRIOR TO THE TRANSFER YOU WILL BE INFORMED AS TO HOW AND WHEN THIS WILL HAVE TO BE ACCOMPLISHED.

13. Q. HOW MAY I OBTAIN THE RETURN OF MY PERSONAL BELONGINGS?

A. THE EMBASSY IS PRESENTLY TRYING TO WORK OUT AN ARRANGEMENT FOR THE RETURN OF POSSESSIONS TO ALL PRISONERS LIKELY TO BE TRANSFERRED BEFORE THE TRANSFER DATE. TO THE EXTENT POSSIBLE, CONSULAR OFFICERS WILL TRY TO ASSIST IN

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ARRANGEMENTS FOR THE RETURN OF POSSESSIONS TO PRISONERS WHO WILL NOT BE TRANSFERRED IN THE NEAR FUTURE. HOWEVER, AS PREPARATIONS FOR THE TRANSFER WILL BE TAKING THE GREAT MAJORITY OF THE TIME OF THE CONSULAR OFFICERS, THEY WILL NOT BE ABLE TO SPEND MUCH TIME IN OBTAINING RETURN OF POSSESSIONS IN INDIVIDUAL CASES. END TEXT.

2. COMMENT:

EMBASSY STRONGLY URGES PROMPT CONSIDERATION OF ABOVE INFO SHEET. CONSULAR OFFICERS ARE COMING UNDER INCREASINGLY POINTED QUESTIONS. SHEET EXPECTED RELIEVE THEM OF THIS PRESSURE AND AVOID DISCUSSION WHICH COULD LATER BE TERMED AS LEGAL ADVICE OR PRESSURE WHEN PRISONER RAISES QUESTIONS IN AREA OF EITHER DROPPING APPEAL OR AMPARO. WHILE JUSTICE AND BUREAU OF PRISONS REP DID VISIT SANTA MARTA MENS AND WOMENS, THE MISINFORMATION PRESENTLY GOING AROUND WOULD BE ALEVIATED TO THE EXTENT THAT THIS IS POSSIBLE. PRISONERS AT POSTS AND IN PRISONS OUTSIDE OF MEXICO CITY HAVE HAD NO BENEFIT OF ANY BRIEFING. WHILE THE INFO SHEET IS AN INTERIM MEASURE ONLY, IN EMBASSY VIEW, ITS DISTRIBUTION IS WARRANTED.

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3. ACTION REQUESTED: EMBASSY WOULD APPRECIATE EARLY DEPARTMENT AUTHORIZATION TO RELEASE INFO SHEET. LUCEY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
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Current Classification: UNCLASSIFIED
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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Secure: OPEN
Status: NATIVE
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TAGS: CASC, PORS, MX, US
To: STATE
Type: TE
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